



Community Development
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Alleged Error Review Application Requirements

Revised July 23, 2012

Introduction to the Board of Adjustment

The City is constantly changing and therefore requires guidance for orderly growth. The Sandy City General Plan provides the general guidance as to how various areas of the city should develop. The Development Code (Zoning Ordinance) is the principal tool used to actually control growth, improve the physical environment of the city and protect property values through the regulation of land uses. However, occasionally Planning Department Staff or the Planning Commission may make a decision that is not popular with affected parties. State law allows the Board of Adjustment to consider the facts of the "alleged error" to decide whether or not the decision was reached properly.

Board of Adjustment Authority

Utah State law grants the Board of Adjustment its authority. Very specific guidelines are established by State law which restricts the Board's power and authority. The following guidelines are from the Sandy City Development Code. They provide the framework under which the Board must consider an alleged error request:

15A-03-04 Appeal Authorities

A. Board of Adjustment

4. Powers and Duties. The Board of Adjustment shall hear and decide:

- b. Appeals from decisions applying the land use ordinance except those appeals specifically delegated in this Code to be heard by an alternate appeal authority.

15A-35-01 Appeals

- A. **Administrative Appeal Required.** As a condition precedent to judicial review, each adversely affected person shall timely and specifically challenge the land use authority's decision, in accordance with these ordinances.
- B. **Authority.** The appeal authorities set forth in this Code act in a quasi-judicial manner and as the final arbiter of issues involving the interpretation or application of land use ordinances.
- C. **Who May Appeal.** The applicant, a board or officer of the City, or any person adversely affected by the land use authority's decision administering or interpreting a land use ordinance may, within the time period provided in this Code, appeal that decision to the designated appeal authority by alleging that there is an error in any order, requirement, decision, or determination made by the land use authority in the administration or interpretation of this Code.
- D. **Time for Appeal.** An appeal of a decision of a land use authority to an appeal authority must be filed in writing with the Community Development Department within 10 calendar days of the date the land use authority issues a written decision or approval of the minutes of a meeting at which the decision was made, if applicable, whichever occurs first.
- E. **Information to be Presented.**
 - 1. An appellant must first present any and all information to the land use authority which it intends to raise before the appeal authority. The appellant may not bring new information for consideration before the appeal authority that had not been previously presented to the land use authority during its consideration of the matter.
 - 2. An appellant must present to the designated appeal authority every theory of relief that it can raise in district court.
 - 3. No new information that was not previously presented to the land use authority may be presented on appeal.

F. **Review of the Record of the Land Use Authority.**

1. The appeal authority's review of decisions of a land use authority shall be confined to the administrative record developed by the land use authority unless the appeal authority determines that the record is incomplete or deficient.
2. If the appeal authority determines that the record is incomplete or deficient, it may review the matter de novo.

G. **Burden of Proof.** The appellant has the burden of proving that the land use authority erred.

Additional information regarding appeals may be found in Section 15A-35-01 of the Sandy City Land Development Code.

Application Requirements

Complete the required application requirements for the Board of Adjustment (see the next page for a checklist of application requirements). In preparing your application and associated materials, be as detailed and specific as possible. Incomplete or inadequate information may result in your case being delayed or possibly denied. **The Board cannot overturn a decision simply because an applicant has requested it.** The burden of proof rests upon you as the applicant to show that the decision was reached improperly. If you fail to support your request, the Board cannot approve your application.

Information Required For a Complete Submittal

1. _____ **Completed Board of Adjustment Application Form** (Including proof of ownership of property or proof that applicant is a certified agent for property owner).
2. _____ Submit a **Plot Plan** drawn **to scale** on a minimum size paper of 8.5" x 11". The Plot Plan must include the following information (when applicable):
 - a. Actual lot dimension.
 - b. Size and locations of existing and proposed structures and improvements, including fences, driveways, and storage sheds.
 - c. Distances between all improvements and property lines.
3. _____ **Building elevations, floor plans and any other pertinent information** (when applicable).
4. _____ In a detailed **letter to the Board**, please specify how you feel the Planning Commission or Administrative Staff erred in their decision in the application of the Land Development Code. Be as detailed as possible. Include all relevant information that will support your position.
5. _____ **Legal Description and Address** of Property (when applicable)
6. _____ **Other Information** which will aid the Board of Adjustment in making a proper determination (as may be determined by the Planning Staff):
7. _____ **Property plat** with aerial photographs (Sidwell maps) from the Salt Lake County Recorder's Office, 2001 South State Street, Government Center, North Building, Salt Lake City, Utah. Your property should be clearly marked in red.
8. _____ **Names and Addresses of all Property Owners** of Current Record, including your own, within 300 feet in all directions of the proposed project area, typed on mailing labels. (This information is available from the Salt Lake County Recorder's Office, 2001 S. State St.)
9. **Filing Fees:** _____ Non-Refundable (Verify fee with Staff)

In the case of Alleged Errors, it is important that you do not submit any new information that has not been previously submitted to the land use authority. If you have any questions, please ask for assistance by calling Brian McCuiston at (801) 568-7268, Sandy City Zoning Administration. CITY EMPLOYEES CANNOT PROVIDE YOU WITH LEGAL ADVICE OR ADVISE OF YOUR CHANCES OF SUCCEEDING.

NOTE: It is required that each case up for hearing be presented and argued before the Board of Adjustment either by the petitioner or an authorized agent. If no one appears to argue your application, the Board may still hear the case and take action in your absence.

If for some reason you are unable to attend the meeting due to a personal emergency, you must call the Zoning Administration at (801) 568-7268 no later than 5:00 p.m. on the day of the hearing. If no arrangements are made, the Board of Adjustment will hear and decide your case with or without your presence.

Appealing a Board of Adjustment Decision

Any appeal of the decision of the Board of Adjustment must be made within thirty [30] days to the appropriate District Court of the State of Utah. The proper forms and procedure for filing such an appeal may be obtained from the District Court or the attorney of your choice. Sandy City **DOES NOT** have this information and cannot assist you in any way with the filing of any appeal of a Board of Adjustment decision. Copies of the case file, including all evidence submitted will be made available to interested parties. You may make a copy of the audio tape of the proceedings at our offices located at 10000 Centennial Parkway, Suite 210, Sandy, Utah.